

PART 115-1—INTRODUCTION

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AUTHORITY: Sec. 205(c), 63 Stat. 377, as amended; 40 U.S.C. 486(c).

SOURCE: 36 FR 8568, May 8, 1971, unless otherwise noted.

Subpart 115-1.1—Regulation System

§ 115-1.100 Scope of subpart.

This subpart establishes the Environmental Protection Agency Property Management Regulations (EPPMR), chapter 115 of the Federal Property Management Regulations System (FPMR) (41 CFR chapter 101); states its relationship to the FPMR, and provides instructions governing the property management policies and procedures of the Environmental Protection Agency (EPA).

§ 115-1.103 Temporary-type FPMR.

§ 115-1.103-50 Temporary-type changes to EPPMR.

Where required, temporary changes will be published as EPPMR-Temporary Regulations. Temporary Regulations will be cross-referenced to related EPPMR subparts and will indicate dates for compliance with, and cancellation of each issuance.

§ 115-1.104 Publication of FPMR.

§ 115-1.104-50 Publication of EPPMR.

(a) Material published in the EPPMR will generally not be of interest to nor directly affect the public. Therefore, most EPPMR material will not be published in the FEDERAL REGISTER.

(b) Arrows printed in the margin of a page indicate material changed, deleted, or added by the EPPMR Transmittal Notice cited at the bottom of that page. (See GSA, FPMR Amend-

ment Transmittal pages for illustrations.)

§ 115-1.106 Applicability of FPMR.

The FPMR apply to all EPA activities unless otherwise specified, or unless a deviation is approved.

§ 115-1.108 Agency implementation and supplementation of FPMR.

(a) EPPMR implements and supplements the FPMR and follows the FPMR in style, arrangement and numbering sequence. Except to assure continuity and understanding FPMR material will not be repeated or paraphrased in the EPPMR.

(b) Implementing material expands upon related material in the FPMR. Supplementing material deals with subject material not covered in the FPMR.

§ 115-1.109 Numbering in FPMR system.

(a) The numbering system used in EPPMR conforms to that of the FPMR except for the chapter number. The first three digits represent the Chapter number assigned to this Agency in title 41, Code of Federal Regulations (CFR). In FPMR the chapter number is 101 and in EPPMR the Chapter number is 115.

(b) Where EPA Chapter 115 implements Chapter 101 the material will be numbered and captioned to correspond to the FPMR part, subpart, section or subsection, e.g., 115-1.106 "Applicability of FPMR" implements 101-1.106 of FPMR.

(c) Where Chapter 115 supplements the FPMR and deals with subject matter not contained in the FPMR, the EPPMR material is numbered to follow that which is most closely related to similar material in the FPMR. Supplementing material is numbered "50" or higher.

§ 115-1.110 Deviations.

Where deemed necessary that regulations set forth in the FPMR or EPPMR be changed in the interest of program effectiveness, a proposed revision will be submitted in accordance with FPR § 1-1.009, to the Division of Data and Support Systems (DSSD) for review and consideration.

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AUTHORITY: 5 U.S.C. 301, 40 U.S.C. 486(c), 41 CFR 101-1.108, and 28 CFR 0.75(i), unless otherwise noted.

SOURCE: 41 FR 45987, Oct. 19, 1976, unless otherwise noted.

Subpart 128-1.1—Regulation System

§ 128-1.100 Scope of subpart.

This subpart introduces the Department of Justice Property Management Regulations (JPMR) as part of the Federal Property Management Regulations System (FPMR) (41 CFR part 101); states its relationship to the FPMR; and provides instructions for the issuance and use of these property management policies and procedures of the Department of Justice.

§ 128-1.101 Justice Property Management Regulations.

The JPMR, established in this subpart, implement and supplement, as necessary, the FPMR provisions governing the acquisition, utilization, management, and disposal of real and personal property. The JPMR are issued to establish uniform property management policies, regulations, and, as necessary, procedures in the Department of Justice.

§ 128-1.105 Authority for JPMR.

The Department of Justice Property Management Regulations are prescribed by the Assistant Attorney General for Administration under authority of 5 U.S.C. 301, 40 U.S.C. 486(c), 41 CFR 101-1.108, and 28 CFR 0.75(j).

§ 128-1.152 Citation.

The JPMR will be cited in accordance with the FEDERAL REGISTER standards applicable to the FPMR. Accordingly, when this section is referred to formally in official documents, it should be cited as “41 CFR 128-1.152.” When a section of the JPMR is referred to informally, however, it may be identified simply by “JPMR” followed by the complete paragraph reference number, e.g., “JPMR 128-1.152.”

Subpart 128-1.50—Authorities and Responsibilities for Personal Property Management

§ 128-1.5001 Scope of subpart.

This subpart sets forth general definitions of terms used throughout the JPMR and states responsibilities and authorities within the Department of

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Justice as they pertain to personal property management functions.

§ 128-1.5002 Definitions.

§ 128-1.5002-1 Acquire.

To procure, purchase, or obtain in any manner, except by lease, including transfer, donation or forfeiture, manufacture, or production at Government-owned plants or facilities.

§ 128-1.5002-2 Department.

The Department of Justice, including all its Bureaus and their respective field operations in all locations.

§ 128-1.5002-3 Head of the Agency/Department.

The Attorney General of the United States.

§ 128-1.5002-4 Bureau.

The Federal Bureau of Investigation; the Law Enforcement Assistance Administration; the Immigration and Naturalization Service; the Drug Enforcement Administration; the Bureau of Prisons; the Federal Prison Industries, Incorporated; and the Operations Support Staff (OSS) of the Office of Management and Finance. The OSS has authority and is responsible for all personal property management functions for the Offices, Boards, and Divisions of the Department, the United States Marshals Service, and the United States Parole Commission.

§ 128-1.5002-5 Personal property.

Property of any kind or interest therein, except real and related property (as defined in FPMR 41 CFR 101-43.104-15), records of the Federal Government, and naval vessels, cruisers, aircraft-carriers, destroyers, and submarines (FPMR 41 CFR 101-43.104-13). For management and accounting control, personal property is categorized as follows:

(a) "Expendable personal property" is that which, by its nature or function, is consumed in use; is used as repair parts or components of an end product considered nonexpendable; or has an expected service life of less than one year.

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(b) "Non-expendable personal property" is that which is complete within itself, does not lose its identity or become a component part of another article when put into use, and is of a durable nature with an expected service life one or more years.

(c) "Controlled personal property" is that personal property for which good management practice dictates that it would be in the interest of the Government to assign and record accountability to assure the proper use, maintenance, protection and disposal of property for which the Government is responsible. Includes, but is not restricted to property which:

(1) Is leased by, in the custody of, or is loaned to or from the Department.

(2) Due to inherent attractiveness and/or portability is subject to a high probability of theft or misuse.

(3) Is warranted, requires knowledge of age and/or previous repair data when determining whether repair or replacement is appropriate.

§ 128-1.5002-6 Personal property management.

A system for controlling the acquisition, receipt, storage issue, utilization, maintenance, protection, accountability, and disposal of personal property to best satisfy the program needs of the Department.

§ 128-1.5002-7 Property management officer (PMO).

An individual responsible for the overall administration, coordination, and control of the personal property management program of a bureau. The designation as PMO may or may not correspond to the individual's official job title.

§ 128-1.5002-8 Property custodian (PC).

An individual responsible for the immediate physical custody of all personal property under his control and for providing documentation as required on all actions affecting the personal property within his jurisdiction. The designation as PC may or may not correspond to the individual's official job title.

§ 128-1.5002-9 Supply support system.

The sum of all actions taken in providing buildings, equipment, supplies, and services to support program areas.

§ 128-1.5003 Primary authority and responsibility.

(a) The Attorney General of the United States has the primary authority and responsibility for providing direction, leadership, and general supervision in the development and administration of an effective and efficient supply support system for the Department, to include:

(1) The establishment of Department-wide policies, directions, regulations, and procedures satisfying the requirements of law, regulations, and sound management practice; and

(2) The review, evaluation, and improvement of personal property management programs, functions, operations, and procedures throughout the Department.

(b) Pursuant to 28 CFR 0.75 and subject to the general supervision of the Attorney General and the direction of the Deputy Attorney General, the functions described above are assigned to the Assistant Attorney General for Administration as delegations of authority.

§ 128-1.5004 Basis for delegations of authority and assignment of responsibilities.

Certain personal property management functions can be performed by an individual only under a specific grant of authority to that individual. Other functions may be performed simply on the basis of general instructions or directions or by virtue of an individual occupying the position to which the responsibility for the function is assigned. In either situation, to eliminate excessive delay and to reduce unnecessary involvement of multiple management levels, it is considered generally desirable to place authority and responsibility for and to exercise property management actions at the lowest organizational unit practical. Accordingly, specific redelegations of the authority vested in the Assistant Attorney General for Administration are made to the heads of bureaus for the personal property management

functions listed in § 128-1.5005 below. The authority to prescribe and issue Department-wide policies, regulations, and procedures for personal property management is not redelegated and remains solely within the jurisdiction of the Assistant Attorney General for Administration.

§ 128-1.5005 Delegations of authority.**§ 128-1.5005-1 Primary delegations.**

The following authorities are redelegated to the heads of bureaus for use within their respective jurisdictions and shall be exercised in accordance with the policies and procedures established by the Assistant Attorney General for Administration.

(a) Designating the PMO, for the bureau, within the following limitations:

(1) Only one PMO is to be designated for the bureau, at the bureau level. Neither the title designation nor the responsibilities of the PMO are to be delegated below that level.

(2) One or more PC's also may be designated for the bureau, depending upon the size and complexity of the organizational structure. Each PC is responsible solely for that property within his respective jurisdiction. The number and distribution of PC's designated is entirely at the option of the head of the bureau.

(3) There is no restriction on designating a single individual as PMO and PC providing that the functions and responsibilities are compatible and are within the capabilities of a single person.

(b) Authorizing exceptions to the FPMR use and replacement standards for office machines, furniture, furnishings and typewriters specified in §§ 101-25.3 and 101-25.4.

(c) Authorizing exceptions to FPMR replacement standards for materials handling equipment specified in § 101-25.304.

(d) Authorizing the procurement of passenger motor vehicles with additional systems or equipment or the procurement of additional systems or equipment for passenger motor vehicles already owned or operated by the Government, in conformance with Federal Standards No. 122 and § 101-25.304.

(e) Authorizing the retention for official use by the bureau of abandoned or other unclaimed personal property and of personal property which is voluntarily abandoned or forfeited other than by court decree.

(f) Determining when personal property becomes excess and reporting the excess property to the General Services Administration (GSA).

(g) Assigning or transferring excess personal property within the bureau to other bureaus of the Department, other Federal agencies, the Legislative Branch to the Judicial Branch, to wholly-owned or mixed-ownership Government corporations, to cost-reimbursable type contractors, or to authorized grantees.

(h) Transferring property forfeited to the Government to other authorized recipients or requesting judicial transfer of such property from others to the bureau.

(i) Determining fair market value of abandoned and other unclaimed property retained for official use by the bureau, for deposit to a special fund for reimbursement of owners.

(j) Approving claims and reimbursing, less direct costs, former owners of abandoned or other unclaimed personal property which has been sold or retained for official use.

(k) Recommending non-Federal grantee excess property screeners to GSA as required in FPMR 101-43.320(h).

(l) When authorized by statutory authority, vesting title to Government-furnished personal property in contractors or grantees.

(m) Acquiring excess personal property from other bureaus and from other Federal agencies.

§ 128-1.5005-2 Redelegations of authority.

(a) The authorities delegated by the Assistant Attorney General for Administration to heads of bureaus may, in turn, be redelegated as necessary to enable personal property management functions to be performed at the organizational level best equipped to handle such functions, unless otherwise prohibited by this regulation.

(b) Such redelegations can be made without the specific approval of the Assistant Attorney General for Adminis-

tration to deputies, principal administrative officers, heads of field offices and installations and their respective deputies. Such redelegations shall not conflict with the duties or responsibilities assigned to the PMO, or PC under the JPMR.

(c) Existing delegations of authority by the Assistant Attorney General for Administration in matters of personal property management which are not covered in this section shall continue in effect until modified or revoked.

(d) Redelegations of authorities made in accordance with this section shall be in writing and shall be made available for audits, surveys, or as otherwise appropriate.

§ 128-1.5006 General responsibilities.

§ 128-1.5006-1 Head of bureau.

The head of a bureau is responsible for establishing and administering a property management program within his respective operation which will provide for:

(a) The planning and scheduling of property requirements to assure that supplies, equipment, and space are readily available to satisfy program needs while minimizing operating costs and inventory levels.

(b) The creation and maintenance of complete, accurate inventory control and accountability record systems.

(c) The maximum utilization of available property for official purposes.

(d) The proper care and securing of property, to include storage, handling, preservation, and preventative maintenance.

(e) The identification of property excess to the needs of the bureau which must be made available to other Departmental activities and reported to GSA for transfer, donation, or disposal, as appropriate, under the provisions of the FPMR and JPMR.

(f) The submission of required property management reports.

(g) The conducting of periodic management reviews within the activity to assure compliance with prescribed policies, regulations, and procedures and to determine additional guidance or training needs.

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(h) Advising all bureau employees of their responsibilities for Government property.

(i) Supporting general ledger control accounts for personal property by establishing subsidiary accounts and records as prescribed by the bureau in accordance with the provisions of DOJ Order 2110.1, Paragraph 4(b)(c).

§ 128-1.5006-2 Property management officer (PMO).

The property management officer of a bureau is responsible for coordinating and conducting the activities of the personal property management program and for performing the following functions:

(a) Providing the required leadership, guidance, and operating procedures for personal property management functions.

(b) Ensuring general ledger control accounts for personal property are supported by property records in accordance with DOJ Order 2110.1, Paragraph 6.103b(4).

(c) Ensuring bureau compliance with the personal property management requirements of the FPMR and JPMR.

(d) Designating items of controlled personal property within the bureau.

(e) Ensuring records of controlled personal property are created and maintained by personnel other than property custodians.

§ 128-1.5006-3 Department employees.

Each employee of the Department who has use of, supervises the use of, or has control over Government property is responsible for that property. This responsibility may take either or both of the following forms:

(a) Supervisory responsibility, in which an officer-in-charge, and administrative officer, or a supervisor is obligated to establish and enforce necessary administrative and security measures to ensure proper preservation and use of all Government property under his jurisdiction.

(b) Personal responsibility, in which each employee of the Department is obligated to properly care for, handle, use, and protect Government property issued to or assigned for the employee's use at or away from the office or station.

§ 128-1.5007 Reproduction of departmental and bureau seals.

(a) Requests for permission to reproduce the Departmental seal for commercial, educational, ornamental or other purposes by other government agencies or private entities shall be referred to the Assistant Attorney General for Administration for decision.

(b) Requests for permission to reproduce the seals of the Federal Bureau of Investigation, the Bureau of Prisons, the Federal Prison Industries, the Immigration and Naturalization Service, the Board of Parole, the Drug Enforcement Administration, and the United States Marshals Service for such purposes by other government agencies or private entities shall be referred to the head of the respective Departmental organization for decision.

(c) The decision whether to grant such a request shall be made on a case-by-case basis, with consideration of any relevant factors, which may include the benefit or cost to the government of granting the request; the unintended appearance of endorsement or authentication by the Department; the potential for misuse; the effect upon Departmental security; the reputability of the use; the extent of control by the Department over the ultimate use; and the extent of control by the Department over distribution of any products or publications bearing a Departmental seal.

[45 FR 55727, Aug. 21, 1980]

Subpart 128-1.80—Seismic Safety Program

AUTHORITY: 42 U.S.C. 7701 *et seq.*, E.O. 12699 (3 CFR, 1990 Comp., p. 269).

SOURCE: 58 FR 42876, Aug. 12, 1993; 59 FR 33439, June 29, 1994, unless otherwise noted.

§ 128-1.8000 Scope.

This subpart establishes a Seismic Safety Program for the Department of Justice and sets forth the policies and procedures for obtaining compliance with Executive Order 12699 (Executive Order), "Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction."

§ 128–1.8001 Background.

The Earthquake Hazards Reduction Act of 1977 (Act), 42 U.S.C. 7701, *et seq.*, as amended, directs the Federal government to establish and maintain an effective earthquake hazards reduction program to reduce the risks to life and property from future earthquakes. Executive Order 12699 implements certain provisions of the Act by requiring Federal agencies responsible for the design and construction of new buildings to develop and implement a seismic safety program. The regulations in this subpart implement the Executive Order, and apply to buildings designed and constructed under the responsibility of the Department of Justice. These regulations do not apply to buildings used by the Department and obtained, through purchase or lease, by the General Services Administration or other Federal agencies.

§ 128–1.8002 Definitions of terms.

(a) *Construction documents*—Detailed plans and specifications for the construction of a building.

(b) *Building*—Any structure, fully or partially enclosed, used or intended for sheltering persons or property.

(c) *New building*—A building, or an addition to an existing building, for which development of construction documents was initiated after January 5, 1990.

(d) *Leased building*—A new building constructed expressly for lease by the Department of Justice, and for which the Department contracted with the lessor or owner to develop construction documents to meet the specifications of the Department.

(e) *Purchased building*—A new building constructed expressly for purchase by the Department, and for which the Department contracted with the owner/developer to develop construction documents meeting the specifications of the Department.

(f) *Assisted or regulated building*—A new building designed and constructed with funding assistance from the Department through Federal grants or loans, or guarantees of financing, through loan or mortgage insurance programs.

(g) *Covered building*—a new building owned, leased, purchased, or assisted or

regulated by the Department of Justice.

§ 128–1.8003 Objective.

The Department shall comply with Executive Order 12699 for the purpose of reducing the risks to lives of occupants of new buildings owned by the Department, leased for Department uses, or purchased and constructed with assistance from the Department, and to other persons who would be affected by the failure of such buildings in earthquakes; improving the capability of essential new Department buildings to function during or after an earthquake; and protecting public investments in all covered buildings; all in a cost-effective manner.

§ 128–1.8004 Seismic Safety Coordinators.

(a) The Justice Management Division shall designate an individual with technical training, engineering experience and a seismic background as the Department of Justice Seismic Safety Coordinator who shall provide overall guidance for the implementation of the Seismic Safety Program for the Department. The Department Seismic Safety Coordinator shall, at a minimum:

(1) Monitor the execution and results of the efforts of the Department to upgrade the seismic safety of the Department's new construction activities;

(2) Implement seismic safety program changes, as required;

(3) Act as a point-of-contact for the Department in maintaining necessary records, and consolidate data pertaining to the seismic safety activities in the Department;

(4) Monitor and record the cost, construction and other consequences attributable to compliance with the Executive Order;

(5) Notify each Component Seismic Coordinator about what information he must maintain under the Seismic Safety Program and what reports he must prepare;

(6) Prepare and forward for submission all reports, as required by law and regulation;

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(7) Manage the Seismic Safety Program for all components of the Department, with the exception of the components listed in paragraph (b) of this section.

(b) The Component Head for the Bureau of Prisons, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service, shall designate a Component Seismic Safety Coordinator for his/her respective component. Each of these Component Seismic Safety Coordinators shall manage and implement the seismic safety policies and activities within the component. The Component Seismic Safety Coordinators shall, at a minimum:

(1) Provide guidance to component employees who undertake building activity;

(2) Maintain and provide data about the Seismic Safety Program, as requested by the Department Seismic Safety Coordinator;

(3) Monitor and record the cost, construction and other consequences attributable to compliance with the Executive Order; and

(4) Submit an annual Seismic Safety Program status report as directed by the Department Seismic Safety Coordinator.

§ 128-1.8005 Seismic safety standards.

(a) To meet the building and construction requirements of this subpart, the Department, except as noted, adopts as its seismic safety standards the seismic safety levels set forth in the model building codes that the Interagency Committee on Seismic Safety in Construction (ICSSC) recognizes and recommends as appropriate for implementing the Executive Order. The ICSSC, as of the date of this rule, recognizes and recommends:

(1) The 1991 International Conference of Building Officials (ICBO) Uniform Building Code (UBC);

(2) The 1992 Supplement to the Building Officials and Code Administrators International (BOCA) National Building Code (NBC); and

(3) The 1992 Amendments to the Southern Building Code Congress (SBCC) Standard Building Code (SBC).

(b) The seismic design and construction of a covered building shall conform to the model code applicable in the locality where the building is constructed, unless:

(1) The building code for the locality provides a higher level of seismic safety than provided by the appropriate model code, in which case the local code shall be utilized as the standard; or

(2) The locality does not have seismic safety building requirements, in which case the ICSSC model building code appropriate for that geographic area shall be utilized as the standard.

§ 128-1.8006 Seismic Safety Program requirements.

The Department Seismic Safety Coordinator and each Component Seismic Safety Coordinator shall ensure that an individual familiar with seismic design provisions of the Seismic Safety Standards (appropriate standards), or a professional, licensed engineer shall conduct the reviews required under this section, as appropriate.

(a) *New building projects*— Construction documents initiated after August 12, 1993, and which apply to new construction projects, shall comply with the appropriate standards and shall be reviewed for compliance. Once the reviewer determines that the documents comply, the reviewer shall affix his/her signature and seal (if a licensed engineer) to the approved documents and provide a statement certifying compliance with the appropriate standards.

(b) *Existing building projects*.— For new buildings with construction documents that were initiated prior to August 12, 1993, the documents shall be reviewed to determine whether they comply with the appropriate standards. If the reviewer determines that the documents comply with the standard, the reviewer shall affix his/her signature and seal (if a licensed engineer) to the approved documents and provide a statement certifying compliance with the appropriate standards. If the reviewer determines that seismic deficiencies exist, the appropriate Component Head shall ensure completion of one of the following:

(1) For a new building project for which a contract for construction has

not been awarded, the construction documents shall be revised to incorporate the appropriate standards. The revised construction documents shall then be reviewed for compliance. Once the reviewer determines that the documents comply with the standard, the reviewer shall affix his/her signature and seal (if a licensed engineer) to the approved documents and provide a statement certifying compliance with the Department standards.

(2) For a new building under construction, or for which construction has been completed, a corrective action plan shall be devised to bring the building into compliance with the appropriate standards. The plan shall then be reviewed for compliance. Once the reviewer determines that the plan complies with the standard, the reviewer shall affix his/her signature and seal (if a licensed engineer) to the approved documents and provide a statement certifying compliance with the Department standards. The Component Head shall ensure implementation of the approved plan.

(3) For an addition to an existing building, the review shall account for, in addition to the requirements provided in paragraphs (b) (1) or (2) of this section, as appropriate, any effect the addition will have on the seismic resistance of the existing portion of the structure. If the reviewer determines that the addition will decrease the level of seismic resistance of the existing building, the appropriate Component Head shall develop a plan of corrective action to restore the seismic integrity of the existing structure. Once the plan of corrective action has been accomplished, the reviewer shall verify that the current level of seismic resistance of the existing building at least equals the seismic resistance level of the building before the addition.

(c) The Department Seismic Safety Coordinator and each Component Seismic Safety Coordinator shall ensure that statements verifying compliance made under this subpart have been completed and retained by the appropriate contracting officer when the Department contracted for design or design review services, or by an individual designated by the Component Head

where the Department has not contracted for either design or design review.

§ 128-1.8007 Reporting.

The Department shall file reports on the execution of the Executive Order as required under the Order, and as required by the Federal Emergency Management Agency.

§ 128-1.8008 Exemptions.

The Executive Order exempts from the regulations in this subpart only those categories of buildings exempted by the "National Earthquake Hazards Reduction Program Recommended Provisions for the Development of Seismic Regulations for New Buildings." The Department Seismic Safety Coordinator shall maintain the latest version of this document.

§ 128-1.8009 Review of Seismic Safety Program.

The Department shall review and, as necessary, revise the Seismic Safety Program once every three years from August 12, 1993.

§ 128-1.8010 Judicial review.

Nothing in this subpart is intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the Department of Justice, its Seismic Safety Coordinators, its officers, or any employee of the Department.

PART 128-18—ACQUISITION OF REAL PROPERTY

Subpart 128-18.50—Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

AUTHORITY: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note).

§ 128-18.5001-1 Uniform relocation assistance and real property acquisition.

Regulations and procedures for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601), as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100-17, 101 Stat. 246-255, 42 U.S.C. 4601 note) are set forth in 49 CFR part 25.

[52 FR 48025, Dec. 17, 1987]

PART 128-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

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AUTHORITY: 41 CFR 128-1.105.

SOURCE: 43 FR 3279, Jan. 24, 1978, unless otherwise noted.

§ 128-48.001 Definitions.

§ 128-48.001-5 Forfeited property.

Personal property acquired by a bureau, either by administrative process or by order of a court of competent jurisdiction pursuant to any law of the United States.

§ 128-48.001-50 Administrative or summary process.

Forfeiture is achieved by direction of the seizing bureau in lieu of the courts. The phrase shall be interpreted to mean by administrative process.

Subpart 128-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 128-48.102-1 Vesting of title in the United States.

(a) Abandoned or other unclaimed property, subject to the provisions of section 203(m) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)), shall remain in the custody of and be the responsibility of the bureau finding such property.

(b) If the owner of such property is known, the owner shall be notified within 20 days of finding such property by certified mail at the owner's address of record that the property may be claimed by the owner or his designee and that if the property is not claimed within 30 days from the date the letter of notification is postmarked, the title of the property will vest in the United States.

(c) If the owner of such property is not known and the estimated value of the property exceeds \$100, the bureau shall post notice within 20 days of finding such property, which contains the following information:

(1) A description of the property including model or serial numbers, if known.

(2) A statement of the location where the property was found and the office that has custody of it.

(3) A statement that any person desiring to claim the property must file with the bureau within 30 days from

the date of first publication a claim for said property.

(4) A complete mailing address is to be provided as a point of contact within the bureau for any person to obtain additional information concerning the property or the procedures involved in filing a claim.

Notice must be published once a week for at least three successive weeks. Sound judgment and discretion must be used in selecting the publication medium. Advertisements should be placed in a publication of general circulation within the judicial district where the property was found.

(d) Property, as described in paragraphs (b) and (c) of this section, shall be held for a period of 30 days from the date of the first publication of notice. Upon the expiration of this 30-day period, title to such property vests in the United States, except that title reverts to the owner where a proper claim is filed within three years from the date of vesting of title in the United States, but if the property has been in official use, transferred for official use, or sold at the time the proper claim is approved, title shall not revert back to the former owner. The former owner shall instead obtain reimbursement in accordance with 41 CFR 101-48.102-4 or 101-48.305-1.

(e) If the owner of such property is unknown and the estimated value of the property is \$100 or less, no notice is required, and the property shall be held for a period of 30 days from the date of finding the property. Upon expiration of this 30-day period, title to such property vests in the United States.

§ 128-48.102-4 Proceeds.

(a) Records of abandoned or other unclaimed property will be maintained in such a manner as to permit identification of the property with the original owner, if known, when such property is put into official use or transferred for official use by the finding bureau. Records will be maintained until the three-year period for filing claims has elapsed to enable the bureau to determine the amount of reimbursement due to a former owner who has filed a proper claim for abandoned or other unclaimed property.

(b) Reimbursement for official use by the finding bureau or transfer for official use of abandoned or other unclaimed property that has been placed in a special fund by the bureau for more than three years shall be deposited in the Treasury of the United States as miscellaneous receipts, or in such other bureau accounts as provided by law.

§ 128-48.150 Determination of type of property.

If a bureau is unable to determine whether the personal property in its custody is abandoned or voluntarily abandoned, the bureau shall contact the regional office of the General Services Administration for the region in which the property is located for such a determination.

Subpart 128-48.3—Disposal of Abandoned and Forfeited Personal Property

§ 128-48.305-1 Abandoned or other unclaimed property.

Proceeds from the sale of abandoned or other unclaimed property that have been placed in a special fund by a bureau for more than three years shall be deposited in the Treasury of the United States as miscellaneous receipts, or in such other bureau accounts as provided by law.

Subpart 128-48.50—Proper Claims for Abandoned or Other Unclaimed Personal Property

§ 128-48.500 Scope of subpart.

This subpart sets forth the policies in regard to proper claims for abandoned or other unclaimed property.

§ 128-48.501 Definitions.

§ 128-48.501-1 Determining official.

The official who has the authority to grant or deny the claim for the abandoned or other unclaimed property.

§ 128-48.501-2 Claimant.

The person who submitted the claim for the abandoned or other unclaimed property.

§ 128-48.501-3 Owner.

The person who has primary and direct title to property (see 28 CFR 9.2(e)).

§ 128-48.501-4 Person.

An individual, partnership, corporation, joint venture, or other entity capable of owning property (see 28 CFR 9.2(f)).

§ 128-48.502 Procedures relating to claims.

(a) Upon receipt of a claim, an investigation shall be conducted to determine the merits of the claim, and the investigation's report shall be submitted to the determining official.

(b) The determining official shall be designated by the head of a bureau.

(c) Upon receipt of a claim and the report thereon by the determining official, he shall make a ruling based upon the claim and the investigation's report.

(d) Notice of the granting or denial of a claim for abandoned or other unclaimed property shall be mailed to the claimant or his attorney. If the claim is granted, the conditions of relief and the procedures to be followed to obtain the relief shall be set forth. If the claim is denied, the claimant shall be advised of the reason for such denial.

(e) A request for reconsideration of the claim may be submitted within 10 days from the date of the letter denying the claim. Such request shall be addressed to the head of the bureau and shall be based on evidence recently developed or not previously considered.

§ 128-48.503 General procedures.

(a) Claims shall be sworn and shall include the following information in clear and concise terms:

(1) A complete description of the property including serial numbers, if any.

(2) The interest of the claimant in the property, as owner, mortgagee, or otherwise, to be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence.

(3) The facts and circumstances, to be established by satisfactory proof, relied upon by the claimant to justify the granting of the claim.

(b) If the claim is filed before title has vested in the United States, the determining official shall not grant the claim for the abandoned or other unclaimed property unless the claimant establishes a valid, good faith interest in the property.

(c) If the claim is filed after title has vested in the United States, the determining official shall not grant the claim for abandoned or other unclaimed property unless the claimant:

(1) Establishes that he would have a valid, good faith interest in the property had not title vested in the United States; and

(2) Establishes that he had no actual or constructive notice, prior to the vesting of title in the United States, that the property was in the custody of a bureau and that title, after the appropriate time period, would vest in the United States. A claimant shall be presumed to have constructive notice upon publication in a suitable medium concerning the property unless he was in such circumstances as to prevent him from knowing of the status of the property or having the opportunity to see the notice.

PART 128-50—SEIZED PERSONAL PROPERTY

Sec.

128-50.000 Scope of part.

128-50.001 Definitions.

128-50.001-1 Seized personal property.

Subpart 128-50.1—Storage and Care of Seized Personal Property

128-50.100 Storage and care.

128-50.101 Inventory records.

128-50.102 Periodic reviews.

128-50.103 Investigation of any discrepancy.

AUTHORITY: 41 CFR 128-1.105.

SOURCE: 43 FR 3279, Jan. 24, 1978, unless otherwise noted.

§ 128-50.000 Scope of part.

This part prescribes the policies for the storage and care of seized personal property; the preparation and maintenance of inventory records of its seized personal property; the conducting of periodic internal reviews; and the investigation of any discrepancy between the inventory records and the actual amount of its seized personal property.

§ 128-50.001 Definitions.

§ 128-50.001-1 Seized personal property.

Personal property for which the Government does not have title but which the Government has obtained custody or control of in accordance with 15 U.S.C. 1177; 18 U.S.C. 924(d), 1955(d), 2513, 3611, 3612, 3615; 19 U.S.C. 1595a; 21 U.S.C. 881; 22 U.S.C. 401; Fed. R. Crim. P. 41(b); 28 CFR 0.86, 0.89, 0.111(j), 3.5, 3.6, 8.1, 8.2, 9a.1, 9a.2; or other statutory authority.

Subpart 128-50.1—Storage and Care of Seized Personal Property

§ 128-50.100 Storage and care.

(a) Each bureau shall be responsible for providing that its seized personal property storage facilities meet the safeguarding standards applicable to the type of property being stored.

(b) Each bureau shall be responsible for performing care on its seized personal property to prevent the unnecessary deterioration of such property. In particular, a bureau preparing a seized vehicle for storage should be at a minimum;

(1) Protect the cooling system from freezing;

(2) Protect the battery by assuring it is properly watered;

(3) Protect the tires by inflating to correct pressure;

(4) Remove all articles found in the vehicle's interior (for example, easily removable radios, tape players, and speakers) and all exterior accessories (for example, wheel covers) that are subject to pilferage and properly store them; and

(5) Shut all windows and lock all doors and compartments that have locks.

§ 128-50.101 Inventory records.

Each bureau shall be responsible for establishing and maintaining inventory records of its seized personal property to ensure that:

(a) The date the property was seized is recorded;

(b) All of the property associated with a case is recorded together under the case name and number;

(c) The location of storage of the property is recorded;

(d) A well documented chain of custody is kept; and

(e) All information in the inventory records is accurate and current.

§ 128-50.102 Periodic reviews.

Each bureau shall be responsible for performing an independent accountability review at least once a year to ensure compliance with this subpart and with the bureau's procedures for the handling, storage, and disposal of its seized personal property. In particular, a bureau conducting a review shall verify that the inventory records are accurate, current, and are being kept in accordance with established inventory procedures.

§ 128-50.103 Investigation of any discrepancy.

(a) Upon discovery of any discrepancy between the inventory records and the bureau's actual amount of seized personal property, a board of survey shall conduct an investigation in accordance with 41 CFR 128-51.1.

(b) If the discrepancy cannot be eliminated and involves a shortage, the bureau shall notify the U.S. attorney in charge of the litigation involving the missing property of the shortage as soon as possible.

(c) If the discrepancy cannot be eliminated and involves an overage, the bureau shall determine if the property has any evidentiary value. If the property does have evidentiary value, the property shall be properly stored and inventoried. If the property does not have any evidentiary value, the bureau shall determine whether the property is forfeitable to the United States, voluntarily abandoned, or abandoned. Proper proceedings shall be commenced as soon as possible to vest title of the forfeitable property in the United States. The voluntarily abandoned and abandoned property shall be kept in custody in accordance with 41 CFR 101-48 and any applicable Justice property management regulations.